

CHAPTER 46:31:01

CERTIFICATION PROCEDURES

Section

46:31:01:01 to 46:31:01:04 Repealed.

46:31:01:05 Denial, suspension, or revocation of certificate.

46:31:01:05.01 Appeal of denial, suspension, or revocation of certificate.

46:31:01:05.02 Time and place of hearing -- Time extension.

46:31:01:05.03 Notification to the division of complaints.

46:31:01:05.04 Notice to the interpreter.

46:31:01:05.05 Investigation of complaints.

46:31:01:06 to 46:31:01:15 Repealed.

46:31:01:05. Denial, suspension, or revocation of certificate. The department may ~~suspend~~, deny, suspend, or revoke a registration or a certificate for any of the following causes:

(1) The interpreter is convicted of a felony which makes the interpreter unfit to serve the public as an interpreter;

(2) The interpreter impersonates another person holding registration or interpreter certification with the department;

(3) The interpreter allows another person to use the interpreter's registration or certificate;

(4) The interpreter uses fraud, deception, or misrepresentation in the registration or certification process;

(5) The interpreter is adjudicated mentally incompetent by a court of competent jurisdiction;

(6) The interpreter harasses, abuses, or threatens a support staff person who is administering this article;

(7) The interpreter intentionally divulges confidential information relating to the certification process, including content, topic, vocabulary, skills, or any other testing materials;

(8) The interpreter does not keep all information in any interpreting situation in strictest confidence;

(9) The interpreter knowingly does not transmit all messages accurately and convey the content and mood of the speaker;

(10) The interpreter does not provide interpreting services that are competent, impartial, and professional;

(11) The interpreter counsels, advises, or interjects personal opinions in any interpreting situation; or

(12) The interpreter does not provide to the consumer information on consumer's rights and the role and appropriate use of interpreting services when requested;

(13) The interpreter fails to meet the minimum requirements for certification or recertification as provided in this chapter.

Source: 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:05, SL 1989, ch 21, § 5, effective July 1, 1989; provision on denial of level of certification transferred to § 46:31:01:03.01, 19 SDR 68, effective November 8, 1992; 23 SDR 16, effective August 8, 1996; 24 SDR 190, effective July 16, 1998; 28 SDR 84, effective December 20, 2001; 33 SDR 107, effective December 26, 2006.

General Authority: SDCL 1-36A-12.

Law Implemented: SDCL 1-36A-12.

Cross-Reference: License proceeding treated as contested case, SDCL 1-26-27.

46:31:01:05.01. Appeal of denial, suspension, or revocation of certificate. An interpreter or applicant may appeal the denial, suspension, or revocation of certification ~~to the department~~. An appeal shall be made in writing to the Director of the Division of Rehabilitation Services within 10 days of receipt of notice regarding denial, suspension, or revocation of the interpreter's certificate. The division director shall provide a determination within 30 days of receipt of request for appeal. An interpreter dissatisfied with the division director's determination may request a fair hearing by notifying the department in writing within 10 days of receipt of the division director's decision. ~~When~~ While denial, suspension, or revocation of certificate is being appealed, the interpreter's certificate will remain in effect until a final decision is reached after a hearing.

Source: 28 SDR 84, effective December 20, 2001.

General Authority: SDCL 1-36A-12.

Law Implemented: SDCL 1-36A-12.

Cross-Reference: License proceeding treated as contested case, SDCL 1-26-27.

46:31:01:05.03. Notification to the division of complaints. Any complaints against a certified interpreter shall be made in writing and include the full name and address of the complainant. The complaint shall outline the facts which clearly and accurately describe the nature of the complaint. A complaint must be sent by first class mail to the Division of Rehabilitation Services, Hillsvew Plaza, E. Hwy 34, c/o 500 E. Capitol, Pierre, SD 57501.

Source:

General Authority: SDCL 1-36A-12.

Law Implemented: SDCL 1-36A-12.

46:31:01:05.04. Notice to the interpreter. The division shall provide written notice that a complaint has been received and a copy of the facts of the complaint to the interpreter by certified mail within 10 business days after receipt of the complaint.

The interpreter must send a written response to the allegations to the division within 30 business days after receipt of notification.

Failure to respond in writing to the allegations within the time frame required will constitute admission to the allegations and a decision will be made by the division without benefit of further investigation.

Source:

General Authority: SDCL 1-36A-12.

Law Implemented: SDCL 1-36A-12.

46:31:01:05.05. Investigation of complaints. The Director of Rehabilitation Services will designate staff to process the complaint and conduct an investigation if the director determines the facts of the complaint merit an investigation.

The division shall notify the interpreter within 10 business days after the completion of the investigation of the following:

- (1) The findings of the investigation;
- (2) Any corrective action necessary;
- (3) The intended action of denial, suspension, or revocation of the interpreter's certification if the corrective action is not completed to the satisfaction of the division and within the required time frame outlined in the determination; and
- (4) The right to appeal any decision to deny, suspend, or revoke the interpreter's certification as outlined in §46:31:01:05.01.

Source:

General Authority: SDCL 1-36A-12.

Law Implemented: SDCL 1-36A-12.

CHAPTER 46:31:02

INTERPRETER REGISTRATION AND CERTIFICATION

Section

- 46:31:02:01 Definitions.
- 46:31:02:02 ~~South Dakota certified interpreter initial registration~~ Repealed.
- 46:31:02:03 EIPA certified interpreter initial registration.
- 46:31:02:04 South Dakota or EIPA certified interpreter annual registration.
- 46:31:02:05 NAD and RID certified interpreter registration.
- 46:31:02:06 CMP cycle extension request.

46:31:02:01. Definitions. Terms used in this chapter mean:

- (1) "Certificate," a document issued by the department or a national organization recognized by the department, which signifies that the interpreter for the deaf has met certain minimum requirements;
- (2) "Certified interpreter," a person registered and certified with the department who performs interpreting as defined in SDCL 1-36A-10.2;
- (3) "Certification maintenance program" or "CMP," a vehicle used to monitor the continued skill development of certified interpreters;
- (4) "CMP cycle," a period of 5 years that begins with initial registration;
- ~~(3)~~(5) "Contact hour," one contact hour equals one continuing education unit;
- ~~(4)~~(6) "Department," the Department of Human Services;
- ~~(5)~~(7) "Educational interpreter performance assessment" or "EIPA," a diagnostic tool which is language-free, designed specifically for an interpreter working with children and young adults in an educational setting;
- ~~(6)~~(8) "National Association of the Deaf" or "NAD," a national organization for the deaf;
- ~~(7)~~(9) "Nationally certified interpreter," an interpreter for the deaf holding a valid NAD certificate, RID certificate, National Interpreter Certificate, or rated by EIPA with a score of at least 3.5 on the performance test;
- ~~(8)~~(10) "National Interpreter Certificate" or "NIC," a certificate granted to an individual who meets the minimum requirements set forth by the Registry of Interpreters for the Deaf and the National Association of the Deaf;
- ~~(9)~~(11) "Registry of Interpreters for the Deaf, Inc." or "RID," a national organization that certifies interpreters for the deaf;

~~(10)~~(12) "Registration," the process by which an interpreter's credentials and continuing education requirements, if required, are verified by the department and a South Dakota certificate is then issued.

Source: 33 SDR 107, effective December 26, 2006.

General Authority: SDCL 1-36A-12.

Law Implemented: SDCL 1-36A-10.1, 1-36A-10.2, 1-36A-11, 1-36A-12.

46:31:02:02. South Dakota certified interpreter initial registration. ~~The department shall register any individual who has a South Dakota certificate issued by the department prior to July 1, 2006, at the interpreter's current level, if the interpreter meets the following requirements:~~

~~—— (1) Submits a completed registration form provided by the department and a copy of the current certificate no later than the expiration date of the current certificate during the month the certificate would expire without regard to the year; and~~

~~—— (2) Submits the applicable fee.~~

~~—— Failure to comply with the requirements of this section shall result in a permanent loss of the interpreter's current South Dakota certificate (issued by the department prior to July 1, 2006). Loss of a current South Dakota certification would require the individual to provide proof of national certification or meet the requirements set forth in chapter 46:31:03 for provisional certification before being eligible to register for South Dakota certification.~~

~~—— The department shall send notice of renewal to the interpreter at least 60 days prior to expiration of the interpreter's current certificate Repealed.~~

Source: 33 SDR 107, effective December 26, 2006.

General Authority: ~~SDCL 1-36A-10.5.~~

Law Implemented: ~~SDCL 1-36A-10.1, 1-36A-10.5, 1-36A-12.~~

46:31:02:03. EIPA certified interpreter initial registration. The department shall register any individual who has an EIPA certificate if the interpreter meets the following requirements:

- (1) Submits a completed registration form provided by the department and a copy of the EIPA certificate;
- (2) Submits documentation of a rating of 3.5 or higher on the EIPA performance test obtained not more than 5 years prior to the date of initial registration; and
- (3) Submits the applicable fee.

Failure to comply with the above requirements shall result in denial of South Dakota registration and certification.

Source: 33 SDR 107, effective December 26, 2006.

General Authority: SDCL 1-36A-10.5.

Law Implemented: SDCL 1-36A-10.1, 1-36A-10.5.

46:31:02:04. South Dakota or EIPA certified interpreter annual registration. The department shall renew the registration of any individual who has a South Dakota or EIPA certificate if the interpreter meets the following requirements:

(1) Submits a completed interpreter registration form provided by the department no later than the expiration date of the current certificate;

(2) Submits documentation verifying completion during the prior year of ~~25~~ any contact hours of continued interpreter education provided by one of the entities listed in § 46:31:04:01 by providing copies of the continuing education unit documents; and

(3) Submits the applicable fee.

The certified interpreter must earn a minimum of 125 contact hours of continuing education during each CMP cycle pursuant to subdivision 46:31:02:06(4). Any active certified interpreter not satisfying the requirements of the certification maintenance program by the end of the certified interpreter's cycle will cease to be certified unless an extension is granted pursuant to §46:31:02:06.

The department shall send notice of renewal to the interpreter at least 60 days prior to expiration of the interpreter's current certificate.

Source: 33 SDR 107, effective December 26, 2006.

General Authority: SDCL 1-36A-10.5.

Law Implemented: SDCL 1-36A-10.1, 1-36A-10.5, 1-36A-12.

46:31:02:06. CMP cycle extension request. The division will consider granting a one-year extension of a CMP cycle upon written request by any interpreter in good standing. The request and accompanying documentation must be submitted prior to the end of the interpreter's current CMP cycle.

Requests will be considered by the division and granted based on the inability to accrue the required number of continuing education contact hours for any sudden and unforeseeable, traumatic, catastrophic, life-altering event that disrupts the life of the certified interpreter or an immediate family member for a considerable amount of time.

An extension can be granted only once in the interpreter's lifetime.

The granting of an extension does not delay the beginning of the participant's new cycle. Once sufficient contact hours have been earned to complete the extended cycle, all subsequent contact hours will be applied to the interpreter's new cycle.

Source:

General Authority: SDCL 1-36A-10.5.

Law Implemented: SDCL 1-36A-10.1, 1-36A-10.5, 1-36A-12.